



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

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DIVISION OF STATE COUNSEL
LITIGATION BUREAU

Writer Direct: (518) 776-2574

June 10, 2021

Honorable Thérèse Wiley Dancks
James M. Hanley Federal Building
P.O. Box 7346
Syracuse, NY 13261

RE: *Hartwick v. Annucci*, et al., 20-CV-408

Dear Judge Dancks,

Our office represents the Defendants in the above-referenced matter. I am writing to provide a status report as directed by the Court on May 27, 2021. *See* Dkt. 63.

Paper Discovery

On or about April 27, 2021, the parties had a meet and confer to discuss certain discovery issues. Our office agreed to produce additional documents by June 10, 2021. Our office also agreed to provide Plaintiff with HIPAA and employment authorizations, and to serve additional document demands on Plaintiff before the May 27, 2021 status conference. Our our office served Plaintiff's counsel with additional document demands on or about May 21, 2021, and authorizations on or about May 24, 2021.

On May 27, 2021, a telephonic status conference was conducted. During the conference, the Court directed that the Defendants produce the requested documents by June 10, 2021. Defendants produced said documents on June 8, 2021. Plaintiff's counsel also demanded a copy of a polygraph examination report from a polygraph administered on Plaintiff in 2016. Our office objected to disclosing this document as it is not relevant nor proportional to the needs of this case—the claims related to this report have been dismissed by the Court. Plaintiff's counsel disagrees and has advised that they may seek Court intervention. Plaintiff's responses to Defendants' discovery demands are due by June 21, 2021.

Depositions

On May 17, 2021, Plaintiff's counsel served a notice of deposition on Defendants Michael Wright, Paul Rigby, Joseph P. Crangle, Ana Enright, and Anthony Annucci. Initially, our office objected to producing the Commissioner Defendants: Parole Board Commissioner Joseph P. Crangle, Deputy Commissioner Ana Enright and Commissioner Anthony Annucci. The parties conferred and, in an attempt at avoiding unnecessary motion practice, agreed as follows:

With respect to the Parole Board Commissioners (Defendants Crangle, Smith and Coppola), our office has agreed to produce Commissioner Crangle for a deposition on July 14, 2021 in Albany, New York. In exchange, Plaintiff has agreed to not seek to depose Defendants Smith and Coppola, unless necessitated by Commissioner Crangle's testimony. The parties have also agreed that any testimony taken from the Parole Board Commissioners (Crangle, Smith and Coppola) will be confidential pursuant to the terms of the protective order executed by Your Honor on or about March 18, 2021. Dkt. 60. Plaintiff, however, is entitled to review the transcripts.

With respect to the depositions of Deputy Commissioner Enright and Commissioner Annucci, our office has agreed to produce Deputy Commissioner Enright for a deposition in Albany, New York. It is anticipated that Deputy Commissioner's deposition will be conducted during the week of August 9, 2021. In exchange, Plaintiff's counsel has agreed not to seek to depose Commissioner Annucci. Instead, Plaintiff will serve interrogatories on Commissioner Annucci. Our office has also agreed to allow Plaintiff to serve 25 new interrogatories on Commissioner Annucci.¹ The parties are working together to prepare a stipulation to that effect.

The depositions for Defendants Michael Wright and Paul Rigby are scheduled to take place on July 27, 2021 in Albany, New York. Plaintiff's deposition will be scheduled after our office receives responses to the outstanding discovery demands and records pursuant to authorizations signed by Plaintiff.

I thank the Court for its consideration.

Respectfully submitted,

s/ Kostas D. Leris

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cc: All Counsel of Record
Via: CM/ECF

¹ Plaintiff previously served 13 interrogatories on Defendant Annucci, which were responded to on or about March 24, 2021.